

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Katz,

Plaintiff[s],

Bowlmor et al.

Defendant[s].

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DOCUMENT  
ELECTRONICALLY FILED  
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DATE FILED: 11/16/2012

No. 12 Civ. 5197 (RJS)  
CASE MANAGEMENT PLAN AND  
SCHEDULING ORDER

RICHARD J. SULLIVAN, District Judge:

Pursuant to Rules 16-26(f) of the Federal Rules of Civil Procedure, the Court hereby adopts the following Case Management Plan and Scheduling Order.

1. All parties (consent) do not consent to disposition of this case by a Magistrate Judge, pursuant to 28 U.S.C. § 636(c). [Please circle one.] [If all consent, the remainder of the Order need not be completed at this time.]
2. This case (is) is not to be tried to a jury. [Please circle one.]
3. No additional parties may be joined except with leave of the Court.
4. Amended pleadings may not be filed except with leave of the Court.
5. Initial disclosures pursuant to Rule 26(a)(1) shall be completed no later than 11/27/12. [Absent exceptional circumstances, within fourteen (14) days of the date of the parties' conference pursuant to Rule 26(f).]
6. All fact discovery is to be completed no later than 3/8/2013. [A period not to exceed 120 days unless the case presents unique complexities or other exceptional circumstances].
7. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. The following interim deadlines may be extended by the parties on consent without application to the Court, provided that the parties meet the deadline for completing fact discovery set forth in ¶ 6 above.
  - a. Initial requests for production of documents shall be served by 12/14/2012.

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- b. Interrogatories shall be served by 12/14/2012.
- c. Depositions shall be completed by 3/8/2013.
  - i. Absent an agreement between the parties or an order from the Court, depositions are not to be held until all parties have responded to initial requests for document production.
  - ii. There is no priority in deposition by reason of a party's status as a plaintiff or a defendant.
  - iii. Absent an agreement between the parties or an order from the Court, non-party depositions shall follow initial party depositions.
- d. Requests to Admit shall be served no later than 12/14/2012.

8. All *expert* disclosures, including reports, production of underlying documents, and depositions shall be completed pursuant to the following deadlines:

- a. Expert(s) of Plaintiff(s) N/A.
- b. Expert(s) of Defendant(s) N/A.

*[The parties shall be prepared to describe their contemplated expert discovery and the bases for their proposed deadlines at the initial conference.]*

9. All discovery shall be completed no later than 3/8/2013.

10. Any class certification motion shall be filed no later than ~~[To be completed by the Court after consultation with the parties.]~~

- a. Defendants shall complete depositions related to the Class Certification Motion no later than ~~3/8/2013~~.
- b. Defendants shall file their brief and other filings in opposition to the Class Certification Motion no later than ~~3/8/2013~~.
- c. Plaintiffs shall complete depositions related to the Class Certification Motion, including of any expert or fact witness whose declaration is filed in opposition to the motion, no later than ~~3/8/2013~~.
- d. Plaintiffs shall file any reply brief in further support of the Class Certification Motion no later than ~~3/8/2013~~.

11. The parties shall submit a Joint Preliminary Trial Report no later than ~~3/8/2013~~ *[To be submitted no more than 14 days after the close of all discovery]*, setting forth the following:

- a. The full caption of the action;
- b. The name, address, telephone number, fax number and email address of each principal member of the trial team, and an identification of each party's lead trial counsel;
- c. A brief statement identifying the basis for subject matter jurisdiction, and, if that jurisdiction is disputed, the reasons therefore;
- d. A list of each claim and defense that will be tried and a list of any claims and defenses asserted in the pleadings that are not to be tried;
- e. An identification of the governing law for each claim and defense that will be tried and a brief description of any dispute regarding choice of law;
- f. The number of days currently estimated for trial and whether the case is to be tried with or without a jury;
- g. A statement indicating whether all parties have consented to trial by a magistrate judge, without identifying which parties do or do not consent; and
- h. A brief description of any summary judgment motion a party intends to file, including a statement identifying whether expert testimony will be offered in support of the motion.

*Post Discovery*

12. The Court will conduct a ~~Case Management~~ Conference on April 5, 2013 at 11:00am [To be completed by the Court.]

13. If either party contemplates a motion, the Case Management Conference will function as a pre-motion conference. Pre-motion letters are to be submitted by March 8, 2013. [To be completed by the Court.] Pursuant to Rule 2.A of the Court's Individual Practices, responses to pre-motion letters are to be submitted within three business days from the date of service of the initial pre-motion letter. Pre-motion letters and responses shall be submitted to the chambers' email address at [sullivanysdchambers@nysd.uscourts.gov](mailto:sullivanysdchambers@nysd.uscourts.gov).

14. ~~The parties shall submit a Joint Final Trial Report and accompanying submissions, as described on pages 11-13 of the Southern District of New York's Pilot Project Regarding Case Management Techniques for Complex Civil Cases (the "Pilot Project"), available at [http://nysd.uscourts.gov/rules/Complex\\_Civil\\_Rules\\_Pilot.pdf](http://nysd.uscourts.gov/rules/Complex_Civil_Rules_Pilot.pdf), no later than~~ [To be completed by the Court.]

15. ~~The Court will conduct a Final Pretrial Conference on~~ [To be completed by the Court.]

16. ~~Trial shall take place beginning on~~ [To be completed by the Court.]

17. Parties have conferred and their present best estimate of the length of trial is 2 days.

18. Counsel for the parties request a settlement conference before a Magistrate Judge or the Southern District's Mediation Program and request: [Please check one. All counsel must meet for at least one hour to discuss settlement not later than two weeks following the close of fact discovery.]

a.  Referral to a Magistrate Judge for settlement discussions

b.  Referral to the Southern District's Mediation Program

*[Note that all employment discrimination cases, except cases brought under the Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 et seq., are designated for automatic referral to the Court's Alternative Dispute Resolution program of mediation. Accordingly, counsel in such cases should select 13(b) above.]*

The parties are to contact MJ Francis by 12/31/12. [To be completed by the Court after consultation with the parties.]

SO ORDERED.

DATED: November 16, 2012  
New York, New York

  
RICHARD J. SULLIVAN  
UNITED STATES DISTRICT JUDGE